

RECEIVED FEB 15 2008

Uintah Water Conservancy District

"Steinaker Dam"

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Vernal, Utah 84078
Phone: (435) 789-1651
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"Red Fleet Dam"

February 6, 2008

Utah NF Wild and Scenic River DEIS
P.O. Box 162969
Sacramento, CA 95816-2969

To Whom It May Concern:

After reviewing the information presented at the Wild and Scenic Rivers Suitability Open House held at Western Park on May 24, 2007, the final eligibility document and the maps contained therein and the information presented at Public meeting on the DEIS held in Vernal on January 24, 2008, the General Manager and trustees of the Uintah Water Conservancy District (UWCD) request that the following comments be taken into consideration when determining the suitability of these river segments. Only those segments that are wholly or partially contained in Uintah County are addressed herein. There are, however, several segments on the Uinta River that are of concern as they provide the municipal, industrial and irrigation water used in western Uintah County. At the DEIS public meeting held in Vernal on January 24, 2008, 6 alternatives were presented with alternative 3 being identified as the "Preferred Alternative". There was also some discussion that alternative 4 was being considered as well, which lead us to believe that it was the second preferred alternative. Given that alternatives 3 and 4 seem to be the most probable alternatives, we will first address the river segments within Uintah County that are included in those two alternatives.

Black Canyon – This segment like several of the other segments does not have water present and flowing at all times. There are several places in the canyon where the water sinks into an underground system leaving the streambed dry except during the high flows of spring runoff. Mention is made of Colorado Cutthroat, rainbow, and brook trout being present. There may indeed be some short stretches in the canyon where ponds formed during high water would allow these fish to exist but because of the nature of this and other streams in the area where the water sinks and sometimes reemerges later, a vibrant fishery is not likely to be maintained.

Ashley Gorge Creek – This segment is along the main stem of Ashley Creek and conveys most of the water used in the Ashley Valley for irrigation, municipal and industrial uses. Black Canyon and the Ashley Springs join the main stem of Ashley Creek in this segment. Releases from Oaks Park reservoir, Long Park, Ashley Twins, and Goose Lakes flow through this section and are regulated to provide irrigation water during the latter part of the irrigation season. The releases of this water are a very important part of a complex exchange system of water in the Ashley Valley. They provide water for exchange for water users above the Steinaker Service Canal. Several municipalities also hold shares of this water. The Lower Dry Fork Creek, Black Canyon, and the South Fork Ashley Creek segments and the corresponding drainages combined with this Ashley Gorge Creek segment provide virtually all of the water used for municipal, industrial, and irrigation purposes in the Ashley Valley. Even though this segment conveys much of the Valley's water, there are times and sections of even this segment that do not have water present and flowing at all times. As the flows diminish during dry periods or later in the summer, there are areas along this segment where the water sinks

into the ground leaving a dry stream bed. Water from the reservoirs listed above provide additional flows during the late summer period and therefore there are less of these dry streambed areas than would exist if only the natural flows were present. The report cites fishing in only the upper portion of this segment; that is because low flows or dry streambeds are prohibitive of fishing lower in the gorge. The report also cites limited kayaking and canoeing on the lower half of the gorge for about a 30 to 40 day period during early spring runoff. We have inquired of many people who are familiar with this segment including Ashley Valley Water and Sewer District whose treatment plant is located at the mouth of the gorge and not one of them can remember ever seeing or being aware of anyone using the gorge for canoeing or kayaking. The extremely rough and steep access and the steep fall of the water along with the debris in the stream during high water would make canoeing virtually impossible and kayaking extremely dangerous to the point of life threatening. The lower part of this segment is on BLM administered lands and ends at private land. The BLM did not include this segment in their Wild and Scenic study.

Lower Dry Fork Creek – The inconsistencies, errors and problems with the report on this segment are indicative of all of the other segments. The segment begins at the Dry Fork Sinks and continues through private land and BLM administered lands. The gauging station at the end of the segment is not on BLM land as reported but rather on private land. As we understand it, the BLM did not include this segment in their Wild and Scenic study and the report states that the only value that is rated high that extends beyond the National Forest Boundary on to land administered by the BLM is the Geologic/Hydrologic value. Given these facts, why is the Forest Service including a portion of the segment that is administered by the BLM? Much of the historical value cited along this segment is on the one mile segment of private land in the middle of the segment and should therefore not be included. The flume mentioned in the report under historic value was never used for timber harvesting activities as stated nor are there any irrigation canals in this segment. The flumes were constructed in an effort to by-pass the sinks to increase the flow in the stream for irrigation far below this segment. The flume never functioned as envisioned and was abandoned. This entire segment has a road immediately adjacent to the stream bed. Due to the “sinks”, this entire section is dry at least nine months of the year and only has water flowing in it during High Water May-July. The sinks above this segment provide much of the water that surfaces in the Ashley Spring at the mouth of Ashley Gorge and provides much of the Municipal and Industrial water that is treated at the two treatment plants in the Ashley Valley. This connection has been proven in the past through dye testing. The Forest Service has chosen to end this segment at the point where private ownership resumes and yet did not give that same deference to the private land owners within the segment. This fact along with the fact that the Forest Service is including a section administered by the BLM when the BLM did not include it shows a real inconsistency in applying the factors to determine suitability within the Forest Service and between governmental agencies. The document mentions an alluvium and outwash near the canyon mouth; what it fails to mention is that much of that alluvium and outwash came from a large wash out incident in 1997 from saturated soils and an iced Mosby canal. The Tentative WSR for this segment is Recreational and yet there is no evaluation of the ORV for recreation. The only mention of recreation is under the heading of current uses wherein it is mentioned that “some kayaking and canoeing occurs in portions of the creek for about a 30 to 40 day period during early spring runoff”. That statement is an extreme exaggeration of reality. Those who own the private property within this segment and immediately below this segment have not witnessed any of these activities for as far back as anyone can remember. Probably the most glaring of the misrepresentations in the report on this segment is that “Colorado River Cutthroat trout are present but may be depressed”, and that “Brook Trout are present with a strong population”. Unless these trout can live in dry stream beds or thrive underground in the “karst” system, this statement is patently false and makes one wonder how many of the other comments are simply made up.

We will now include comments regarding other river segments included in alternatives 5 and 6.

Upper Whiterocks River – This segment begins at the outlet works of Chepeta Dam and is therefore dry much of the year due to impounding the water for much of the year and releasing it only during the irrigation season to satisfy legitimate water rights below. We are concerned that the water rights that allow this impoundment and release would be curtailed or foreclosed if approved. As far as we know, there is no support from any other federal, state, or local agency nor is there any agreement or desire to enter into an agreement to share the administration costs by any local or state government agency. The tentative WSR classification is Scenic even though the description of the Scenic Value has more to do with the surrounding area than it does with the segment and the segment's corridor itself.

West Fork Whiterocks River – This segment begins at the Fox/Queant Pass. Included in the segment are lakes which hold irrigation water for lands lower on the Whiterocks and Uinta Rivers. We are concerned that the water rights would be curtailed or foreclosed if approved. As far as we know, there is no support from any other federal, state, or local agency nor is there any agreement or desire to enter into an agreement to share the administration costs by any local or state government agency. The tentative WSR classification is Scenic even though the description of the Scenic Value has more to do with the surrounding area than it does with the segment and the segment's corridor itself.

Reader Creek - This segment begins at the Reader Lakes and is dry or flows very little water much of the year. We are concerned that the water rights would be curtailed or foreclosed if approved. As far as we know, there is no support from any other federal, state, or local agency nor is there any agreement or desire to enter into an agreement to share the administration costs by any local or state government agency. The tentative WSR classification is Scenic even though the description of the Scenic Value has more to do with the surrounding area than it does with the segment and the segment's corridor itself.

East Fork Whiterocks River – This segment begins at the outlet works of White Rocks Dam and is therefore dry much of the year due to impounding the water for much of the year and releasing it only during the irrigation season to satisfy legitimate water rights of the Ouray Park Irrigation Company below. We are concerned that the water rights that allow this impoundment and release would be curtailed or foreclosed if approved. As far as we know, there is no support from any other federal, state, or local agency nor is there any agreement or desire to enter into an agreement to share the administration costs by any local or state government agency. The tentative WSR classification is Scenic even though the description of the Scenic Value has more to do with the surrounding area than it does with the segment and the segment's corridor itself. The conclusion on page 118 of the "Final Eligibility Determination of Wild and Scenic Rivers" shows that it does not qualify as Wild, Scenic, or Recreational.

Middle Whiterocks River - This segment is only in Uintah County for a short .15 miles and does not have any impoundments along its length. It does, however, convey water from Chepeta, Cliff, and White Rocks reservoirs to irrigated lands lower on the river system. Due to these impoundments, flows in this segment are artificially regulated to meet the legitimate water rights of users further down the river. We are concerned that the water rights that allow this impoundment and release would be curtailed or foreclosed if approved. As far as we know, there is no support from any other federal, state, or local agency nor is there any agreement or desire to enter into an agreement to share the administration costs by any local or state government agency. The tentative WSR classification is

Scenic even though the description of the Scenic Value has more to do with the surrounding area than it does with the segment and the segment's corridor itself. One of the Scenic items mentioned as visible from this segment is the Cliff Lake Falls which would not exist were it not for Cliff Lake reservoir.

South Fork Ashley Creek – This is one of the few segments that can meet the criteria of having water present and flowing at all times. During the summer months, however, some of that water comes from the release of water from storage reservoirs owned and operated by the Ashley Valley Reservoir Company. This segment would also be used in conjunction with any reservoir constructed in the Trout Creek area, the water right for which is currently held by Vernal City. There are several roads and trails that cross this segment with Red Cloud Loop being the main one which is probably why it is listed as Scenic rather than Wild or Recreational. I would again question whether the scenic value described in the report is within or outside of the ¼ mile corridor on either side of the stream. Most of the descriptions seem to be outside of that corridor and are therefore not “water related”. Much of the irrigation and other water used in the Ashley Valley either originates in or flows through this segment.

UWCD is extremely concerned that like the ESA this WSR legislation will become more than it was originally intended to be. We are concerned that the unintended consequences may limit use of water not only along these segments but could and probably would control or at a minimum influence the management of water on segments above and below these potentially suitable segments.

- There is very little if any unsubscribed water in any of these segments so that there would be virtually no water for any “Junior Water Rights” obtained for instream flows.
- UWCD is concerned that the holders of legitimate water rights will have those rights altered and/or manipulated to satisfy future “unintended and/or unforeseen “needs” of a segment designated as Wild and Scenic.
- UWCD is concerned that the water resource would indeed be curtailed or foreclosed.
- UWCD feels that current resource protections are sufficient and that no new protections are warranted.
- UWCD does not support acting to further protect or manage these segments.
- UWCD under no circumstance would participate in paying the costs of managing the corridor nor share in the cost of administration. Discussions held with other state and local governmental agencies indicate that they would not participate in funding or administering these potentially suitable river segments.
- UWCD agrees with the state of Utah that water should be present and flowing at all times in order for any segment to be eligible for consideration for WSR. Applying that criterion alone, the only segments located in Uintah County that would remain suitable would be the Middle White Rocks River and the South Fork Ashley Creek, However, much of the water conveyed by these two segments is regulated by upstream dams for irrigation in the valleys. All other segments located in Uintah county are either dependent on releases from reservoirs for flow or are located in areas where the water sinks into the underground “karst” system for much if not most of the year.
- UWCD has seen no evidence that any attempt has been made by the Ashley National Forest to consider the social and political factors. In fact, it appears that they have avoided considering those factors altogether. We are convinced that had these factors been included, they would have clearly shown that these segments are not suitable. The current step is to assess the suitability of each of the segments previously determined to be eligible. This step

is to answer the two questions of “should the river be protected?” and if so “What is the best method of protection?”. During this phase all social and political factors are to be considered.

Attached to this letter is that portion of the Utah Code Annotated which deals with the State’s support for the addition of a river segment to the National Wild and Scenic Rivers System.(see attachment #1) The Section in the code is 63-38d-401(8). Among several other conditions this section states that the State’s support will be withheld until (i) it is clearly demonstrated that water is present and flowing at all times; (ii) it is clearly demonstrated that the required water-related value is considered outstandingly remarkable within a region of comparison consisting of one of the three physiographic provinces in the state, and that the rationale and justification for the conclusions are disclosed; (iii) it is clearly demonstrated that the inclusion of each river segment is consistent with the plans and policies of the state and the county; and (iv) the effects of the addition upon the local and state economies, agricultural and industrial operations and interests, outdoor recreation, water rights, water quality, water resource planning, and access to and across river corridors in both upstream and downstream directions from the proposed river segment have been evaluated in detail by the relevant federal agency.

As we understand the Wild and Scenic Rivers legislation it is necessary to obtain the support of the State Legislature and the state’s congressional delegation before submitting the segments to Congress for designation. Given that fact and the conditions set forth in Utah Law as cited above, not one of the segments being presented in this suitability phase will ever be considered for designation and as such are a waste of everyone’s time to take forward. Several of the segments being considered only have water in them for a small part of the year and would therefore not qualify under the state law.

The state law states that the “water-related” value must be considered outstandingly remarkable. The tentative classification for several of the segments being considered is listed as “Scenic”. The scenic values described in most of the segments has to do with the scenery outside of the river corridor of ¼ mile on each side of the river and therefore are not “water related”.

Very little coordination was done with either the state or the county to determine whether the inclusion of the segment is consistent with their plans and policies. We know of no efforts made to determine the effects of the addition of these segments on the local economies, agricultural and industrial operations and interests, water rights, water resource planning etc. The Forest Service has made no efforts to discuss UWCD’s concerns regarding water rights and effects on water resource planning. In short, not one of the segments being presented in the suitability phase can meet all of the conditions as set forth in the state law and will therefore not obtain the support of the state. Why then is time and effort being wasted on them.

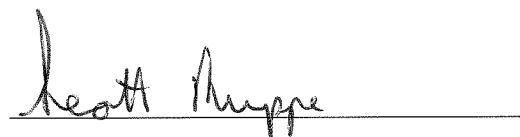
There are 11 suitability factors listed in Appendix E of the “Wild and Scenic River Review in the State of Utah” (Process and Criteria for Interagency Use) Published in July 1996. (see Attachment #2) Among those that would apply and could eliminate several of the segments under consideration for suitability are: “Land ownership and current uses”, “Resources and uses enhanced, curtailed, and foreclosed”, “Existing resource protection”, “Other Federal Agency, local, tribal and state government, and general public support for acting to protect and manage the river”, “Alternatives and impacts (on resources, uses, valid existing rights, etc.)”, “Extent to which administration costs will be shared by local and state governments”. Also attached is a separate list of 16 suitability factors obtained at the open house. (see attachment #3)

Each of the river segments located in Uintah County being considered in this suitability phase is addressed separately below. This is not an exhaustive list of objections but rather a representation of some of the reasons that we believe these segments are not suitable to be included in the National Wild and Scenic River system.

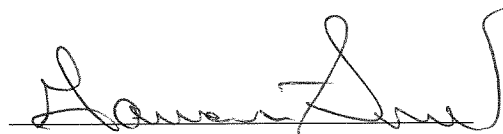
Once again the UWCD expresses concerns over the suitability of these proposed segments for inclusion as National Wild and Scenic Rivers. As stated previously most of these segments do not have water present and flowing at all times. Much of the water in those segments that do have water present and flowing at all times is regulated water from reservoirs higher in the river system. Those waters are stored and released to meet the legitimate water rights of irrigators and other water right holders lower in the system. Any re-regulation and/or interference with that water and the related water rights would have a detrimental if not devastating effect on the economy of the communities in the valleys below. Any change to the management of this water would affect the farming activities and the water resource management efforts in the area.

We appreciate the opportunity to comment and look forward to discussing our concerns further. We request that all of the segments being considered for suitability be removed from consideration as wild and scenic rivers.

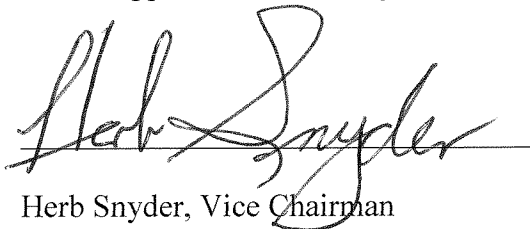
Sincerely,



Scott Ruppe, General Manager



Gawain Snow, Chariman



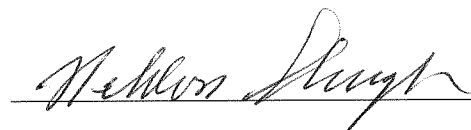
Herb Snyder, Vice Chairman



Vernon Richens, Vice Chairman



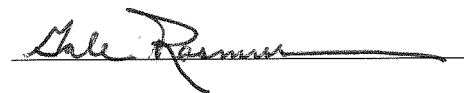
Quentin Johnson, Trustee



Neldon Slaugh, Trustee



William Merkley, Trustee



Gale Rasmussen, Trustee

CC Kevin Elliot

Attachment # 1

63-38d-401 (8) The state planning coordinator shall recognize and promote the following findings in the preparation of any plans, policies, programs, processes, or desired outcomes relating to federal lands and natural resources on federal lands pursuant to this section:

- (a) the state's support for the addition of a river segment to the National Wild and Scenic Rivers System, 16 U.S.C. Sec. 1271 et seq., will be withheld until:
 - (i) it is clearly demonstrated that water is present and flowing at all times;
 - (ii) it is clearly demonstrated that the required water-related value is considered outstandingly remarkable within a region of comparison consisting of one of the three physiographic provinces in the state, and that the rationale and justification for the conclusions are disclosed;
 - (iii) it is clearly demonstrated that the inclusion of each river segment is consistent with the plans and policies of the state and the county or counties where the river segment is located as those plans and policies are developed according to Subsection (3);
 - (iv) the effects of the addition upon the local and state economies, agricultural and industrial operations and interests, outdoor recreation, water rights, water quality, water resource planning, and access to and across river corridors in both upstream and downstream directions from the proposed river segment have been evaluated in detail by the relevant federal agency;
 - (v) it is clearly demonstrated that the provisions and terms of the process for review of potential additions have been applied in a consistent manner by all federal agencies;
 - (vi) the rationale and justification for the proposed addition, including a comparison with protections offered by other management tools, is clearly analyzed within the multiple-use mandate, and the results disclosed;
 - (vii) it is clearly demonstrated that the federal agency with management authority over the river segment, and which is proposing the segment for inclusion in the National Wild and Scenic River System will not use the actual or proposed designation as a basis to impose management standards outside of the federal land management plan;
 - (viii) it is clearly demonstrated that the terms and conditions of the federal land and resource management plan containing a recommendation for inclusion in the National Wild and Scenic River System:
 - (A) evaluates all eligible river segments in the resource planning area completely and fully for suitability for inclusion in the National Wild and Scenic River System;
 - (B) does not suspend or terminate any studies for inclusion in the National Wild and Scenic River System at the eligibility phase;
 - (C) fully disclaims any interest in water rights for the recommended segment as a result of the adoption of the plan; and
 - (D) fully disclaims the use of the recommendation for inclusion in the National Wild and Scenic River System as a reason or rationale for an evaluation of impacts by proposals for projects upstream, downstream, or within the recommended segment;
 - (ix) it is clearly demonstrated that the agency with management authority over the river segment commits not to use an actual or proposed designation as a basis to impose Visual Resource Management Class I or II management prescriptions that do not comply with the provisions of Subsection (8)(t); and
 - (x) it is clearly demonstrated that including the river segment and the terms and conditions for managing the river segment as part of the National Wild and Scenic River System will not prevent, reduce, impair, or otherwise interfere with:
 - (A) the state and its citizens' enjoyment of complete and exclusive water rights in and to the rivers of the state as determined by the laws of the state; or
 - (B) local, state, regional, or interstate water compacts to which the state or any county is a party;

(b) the conclusions of all studies related to potential additions to the National Wild and Scenic River System, 16 U.S.C. Sec. 1271 et seq., are submitted to the state for review and action by the Legislature and governor, and the results, in support of or in opposition to, are included in any planning documents or other proposals for addition and are forwarded to the United States Congress;

Attachment # 2**Appendix E
Suitability Factors**

Characteristics which do or do not make the area a worthy addition The suitability phase of the study evaluates whether the designation into the national system would be the best way to manage eligible rivers. As directed by the Act, the federal guidelines, and agency policy manuals, the following items should be addressed while considering whether a river is suitable for inclusion in the national system.

- Characteristics which do or do not make the area a worthy addition to the national system
- Landownership and current uses
- Resources and uses enhanced, curtailed and foreclosed
- Existing resource protection
- Other federal agency, local, tribal and state government, and general public support for acting to protect and manage the river
- Alternatives and impacts (on resources, uses, valid existing rights, etc.)
- Manageability to protect outstandingly remarkable values
- Feasibility and timeliness of designation
- Costs required for land/easement acquisition and corridor management
- Extent to which administration costs will be shared by local and state governments
- Other issues identified in the planning process

Attachment # 3**Suitability Factors for Wild and Scenic Rivers**

What Factors are considered in the suitability evaluation and determination process?

Factors to consider include, but are not limited to:

- Landownership and land uses
- Existing and potential water resources development
- Existing and potential transportation, facilities, and other developments
- Existing and potential mineral and energy resource activities
- Existing grazing activities
- Existing and potential recreation activities
- Other existing and potential resource activities (e.g. :farming activities, current or potential vegetation management projects, recreation facilities or trail projects)
- Existing or potential special designations
- Socio-economic environment
- Current administration and funding needs if designated
- The extent to which the State or its political subdivisions might participate in the shared preservation and administration of the river, including costs
- The state/local government's ability to manage and protect the outstandingly remarkable values on non-federal lands
- Support or opposition to designation
- The consistency of designation with other agency plans, programs or policies and in meeting regional objectives
- Contribution to river system or basin integrity
- Demonstrated or potential commitment for public volunteers, partnerships, and/or stewardship commitments for management and/or funding of the river segment

**MOUNTAINLAND**

ASSOCIATION OF GOVERNMENTS

Serving Summit, Utah and Wasatch Cities & Counties

Utah NF Wild and Scenic River DEIS
PO Box 162969
Sacramento, CA 95816-2969

February 13, 2008

RE: Comments on Utah NF Wild and Scenic River DEIS

To Whom it May Concern:

This letter is written as formal comment on the Utah NF Wild and Scenic River DEIS. Mountainland Association of Governments (MAG) represents the local governments in the three county area of Summit, Utah and Wasatch Counties.

At our January 24th, 2008, Executive Board meeting, the Board moved that the following comments be formally sent to the Forest Service regarding the Utah NF Wild and Scenic River DEIS.

The comments are:

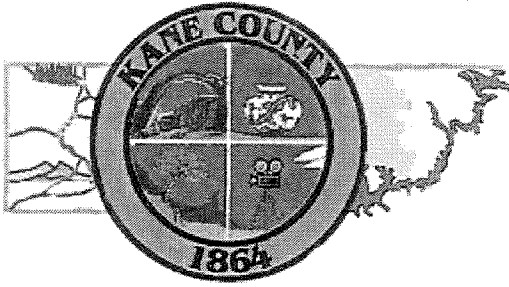
1. The current protection and regulation of our rivers and creeks is adequate.
2. The current permitted access and use regulations must be maintained.
3. If segments are designated as wild and scenic, it will effect non-designated areas of the rivers and streams up and down stream from the designated segments.

Please include these comments in your document.

If you have any questions regarding these comments, please feel free to contact Wasatch County Councilmember Kendall Crittenden at 435-671-1303.

Sincerely,

Mayor Roger R. Keller, Chair
Mountainland Association of Governments



UTD156

Kane County Commission

Daniel W. Hulet, Duke Cox, Mark W. Habbeshaw

76 North Main

Kanab, Utah 84741

(435) 644-4901

February 14, 2008

To: USFS - utahnfwsdeis@fscomments.org

Re: Kane County's Wild and Scenic River System DEIS comments

Kane County appreciates the opportunity to participate in the Wild and Scenic River DEIS planning process for the National Forest System Lands in Utah and to present comments on wild and scenic river suitability within Kane County.

The County's comments will focus on three primary areas: 1. eligibility/suitability, 2. local property, water rights and economic impacts and, 3. local support.

The Interagency Wild and Scenic Rivers Coordinating Council stated that the purpose of the Wild and Scenic Rivers Act (Act), October 2, 1968, (Public Law 90-542) "was to preserve forever in a free-flowing condition some of the nation's most precious rivers." (Technical Report, "An Introduction to Wild and Scenic Rivers," 1998) The Act is primarily about determining the need to protect "the nation's most precious river" and the establishment of the protective management provisions necessary to preserve those river corridors.

Eligibility, Suitability and Protective Management

The Wild and Scenic Rivers Coordinating Council's Technical Report titled "The Wild & Scenic River Study Process," 1999, offers criteria and guidelines regarding wild and scenic designations. The County considers the USFS planning effort in light of the Council's report as discussed below.

Eligibility Requirements

To be eligible for designation, a river must be free-flowing and possess one or more ORVs. While the determination that a river contains ORVs is a professional judgment, it must be based on objective, scientific analysis. In addition, input from organizations and individuals familiar with river segment resources should be sought and documented as part of the process. Suitability may be arbitrary if based on casual opinion rather than objective scientific analysis.

The minimal data and analysis presented in documents to this point may not support suitability status regarding the North Fork of the Virgin River segment in Kane County. Was the North Fork of the Virgin River segment recommended for Wild and Scenic status by the public? Was local support or the lack of local support by the public and local governmental considered in the eligibility process?

In order to be assessed as outstandingly remarkable, a river-related value must be a unique, rare or exemplary feature that is significant at a comparative regional or national scale. The Counsel's report cited dictionary

definitions of the words "unique" and "rare" as indicating that such a value would be one that is a conspicuous example from among a number of similar values that are themselves uncommon or exemplary.

If the Colorado Plateau is the area of comparison the segments should be considered as the best of the best compared to the 252 miles of river segments recommended for Congressional designation within the GSENM which is within close proximity to the USFS's eligible segments. Best of the best comparisons should also include comparisons to similar river segments in Zion National Park, The Glen Canon NRA and, of course, the Grand Canyon NP. The EIS should also consider the 165 miles of wild and scenic river designations proposed in the Washington County land bill along the North Fork Virgin River and its segments. No such comparisons were made in determining that additional segments are outstandingly remarkable, regionally significant, unique and rare in comparison to the plethora of such streams, creeks and rivers in the area. It would appear that not all of the hundreds of down cutting streams and creeks caused by the uplift of the Colorado Plateau could meet the minimum threshold requirements of the Wild and Scenic Act. To put it simply; how many short segments of down cutting streams and creeks within Kane County and the immediate area qualify as outstandingly remarkable, regionally significant, unique and rare? How many require protection since they are under no threat of river, stream or creek corridor development. Was it the intent of Congress in passing the Wild and Scenic Act to designate thousands of short stream and creek segments throughout the West as part of the Wild and Scenic River System, or was it congressional intent to protect only "some of the nation's most precious rivers?"

Suitability Requirements

The need for protection is the overriding purpose of the Wild and Scenic Act. The Council's report asks: "[s]hould the river's free-flowing character, water quality, and ORVs be protected, or are one or more of the other uses important enough to warrant doing otherwise? Will the river's free-flowing character, water quality, and ORVs be protected through designation? Is it the best method for protecting the river corridor? In answering these questions, the benefits and impacts of WSR designation must be evaluated, and alternative protection methods considered.

The North Fork of the Virgin River segment is within the USFS which currently has the management tools providing significant protection to water, resources, values, and lands even beyond the proposed WSR boundaries. The report also considered the benefits of a "systems approach" from managing an entire river or watershed, including the ability to design a holistic protection strategy in partnership with other agencies and the public. Is that systems approach realistic regarding the North Fork of the Virgin River segment? And, what would the impacts, both direct and cumulative, be with or without systems management?

The up gradient river segments from Zion NP are protected by WSA status, USFS management and the *Zion National Park Water Rights Settlement Agreement*. Planning should consider through analysis and alternative development whether additional WSR protection is necessary in light of current protection. The Technical Report asks "Is there demonstrated commitment to protect the river by any nonfederal entities who may be partially responsible for implementing protective management? As addressed in these comments such commitment does not exist and adequate management protection may already be in place.

Protective Management

The report compares and contrasts the interim protection afforded congressionally authorized and agency-identified study rivers under Sections 5(a) and 5(d)(1). A river authorized for study by Congress receives

statutory protection under Section 7(b), water resources projects: 8(b), land disposition: and 9(b), mining and mineral leasing. However, a river identified for study through agency planning process **is not** protected under the Act. Rather, protection of its free-flow, water quality, and ORVs occurs through other agency authorities.

Kane County Proposed Segment

North Fork Virgin River

The segment is proposed as “wild.” If it is ultimately included in the W&S River System it may be more

General Concerns Regarding Local Impacts

A review of the Act and other federal documents relating to Wild and Scenic River designations raises serious concerns regarding potential local impacts likely to result from W&S designations. For example, designated rivers running through local jurisdictions could lead to condemnation if local zoning does not conform to the purposes of the Act. The Act provides that the Secretary shall issue guidelines specifying standards for local zoning ordinances consistent with the Act. Private lands within the river area must be evaluated for compatibility with the Act. Activities which would degrade existing water qualities would be abated. No explicit standards or guidelines exist leaving management decisions to local manager’s judgment. New building on private property may be required to be similar in scale and location to pre-existing structures. Instream flow studies may identify limits of acceptable flow and water quality changes. These factors could threaten state water rights use. In fact, Kane County, Garfield County and the Kane County Water Conservancy District are currently litigating GSENM restrictions regarding the beneficial use of state water rights. While incentive carrots are emphasized restrictive regulations and regulatory action may be, and often are, employed if the carrot is deemed unsuccessful.

Protection measures that can be employed include land use regulations (e.g., flood plain zoning) critical areas protection laws (e.g., wetlands protection laws), physical barriers to development, and conservation ownership. Private and state lands can be acquired through purchase, exchange or federal condemnation in order to protect the river area. The goals of river area management are protection, non-degradation and the enhancement of values.

The Federal Energy Regulatory Commission which licenses non-federal hydroelectric projects is not allowed to license projects “affecting wild and scenic rivers.” Other federal agencies may not assist with projects which would have a direct and adverse effect on the “values” for which a river was designated.

While the USFS contends that no off segment impact would likely occur, water-related projects proposed outside the segment could be precluded if they would invade or unreasonably diminish scenic or recreational values within the designated segment. Planning could restrict future uses of forest lands outside the segment if local forest management deems the use of state water rights or other projects potentially impact wild and scenic values within the segment. This condition creates economic and property rights issues that should be fully addressed prior to suitability determinations.

There is no guarantee or even an assurance that these protection and enhancement goals will not restrict future uses of federal, state and private properties off the designated river segment. Private water rights issued and regulated under provisions of state law could be threatened within the designated segment as well as up stream or down stream of the segment. Local economic impacts resulting from designations must be

thoroughly analyzed prior to suitability determinations. The Act and planning documents refer to condemnation, acquisition and exchange of private and state lands. These provisions contrast with the County's policy of no net loss of acreage, which is based on an extremely low percentage of private land contrasted with an extremely high percentage of federal land within the county, it does not address the potential conflict the issue raises. This issue should be fully addressed prior to suitability designations.

Virgin River Drainage Area Agreement

The *Zion National Park Water Rights Settlement Agreement* (Agreement) was signed by Bruce Babbitt, Secretary of the Interior on December 4, 1996. The agreement addresses future water resource development above Zion National Park, specifically including Deep Creek, Upper North Fork Virgin River, Orderville Canyon, Clear Creek, East Fork Virgin River, and Shunes Hollow, among others. The Washington County Water Conservancy District agreed to abandon two major reservoir sites; one on the North Fork Virgin River and one on the East Fork Virgin River in the Barracks area of the Parunuweap Canyon. The agreement establishes terms and conditions for reservoir development, flood control structures and ground water protection zones up stream of the Park, specifically including the North Fork Virgin River and the East Fork Virgin River. The Agreement as a legally binding document allows, subject to limitations, new diversions and depletions within the river segments proposed for wild and scenic river designation in this planning effort. The Agreement should be analyzed as part of the eligibility/suitability process and it should be legally reviewed as to potential constraints limiting eligibility/suitability regarding affected segments.

Letters considered by Kane County during recent BLM W&S Planning

The County, during recent BLM W&S planning, received four letters opposing local support of wild and scenic river designations.

The town of Fredonia submitted a letter advising that the town was "diametrically opposed" to further designation of Cottonwood Canyon, Water Canyon, North Fork Indian Canyon or South Fork Indian Canyon.

Attorney Thomas J. Bayles, representing Split Rock Inc. and its various affiliates owning or controlling a few thousand acres of land in Kane County, expressed concern for interim management restrictions, impacts to up stream development and private property impacts. Mr. Bayles pointed out the fact that no nominations from the public were received, the lack of notice to private land owners adjacent to proposed segments, current protection provided under WSA and ACEC provisions, consideration of private property historic and current good stewardship practices and down stream impacts to existing contract rights involving planned development of private property upstream of proposed segments.

Michael E. Noel, Executive Director of the Kane County Water Conservancy District, expressed concern about the potential impacts of wild and scenic river designations throughout the county as they could significantly impact water development county-wide. The Cove Reservoir is scheduled to be built south of Orderville to be supplied by water from the East Fork Virgin River as well as several other East Fork projects allowed by the *Zion National Park Water Rights Settlement Agreement*. The District has been approached to assist in water development within the Paria River drainage up stream of the proposed Paria River wild segment. The District advised that it should be a direct partner in any planning designation affecting water use in Kane County. The District advised that current resource protections were adequate to protect the

values ascribed in the Wild and Scenic Act. The District stressed the point that the Zion NP Agreement settled water development up gradient from Zion NP and mitigates the need for additional protection measures for those affected rivers.

Ray Spencer, representing the East Zion Special Service District, pointed out that the District provides water and wastewater service to the area east of Zion NP, including segments on the North Fork Virgin River, East Fork Virgin River, Orderville Gulch, Bob Creek, Meadow Creek, Mineral Gulch and Deep Creek. The District specifically objected to the proposed designations of these watercourses. The District proposed that it's Capital Facilities Plan should be considered during this planning process. The District raised the issue that "[t]he setting of additional restrictions on water use up gradient from the Park is probably in violation of [The Zion National Park Water Rights Settlement Agreement]." The District also pointed out that local segments appear to be of low priority with respect to Section 4(a) of the Act and that the Draft Evaluation Report did not specify the criteria or documentation supporting the proposed river segments as perennial and free-flowing.

Previous Kane County Process in BLM W&S Planning

The County vetted the issues of river segment suitability and local support for Wild and Scenic River designations through the Kane County Resource Development Committee. Members of the Committee participated in field trips with the BLM to segments proposed as suitable and studied documents related to the Wild and Scenic River Act. Byard Kershaw, a Resource Committee member, developed a power point presentation consisting of photographs and maps with GPS information that was obtained during the field trips. The power point was subsequently presented to the Resource Committee. The Committee approved a motion recommending that the Kane County Commission NOT support any Wild and Scenic River designations in Kane County by a vote of eight to one.

The County Commission considered the issue in a public commission meeting attended by BLM and the public. The Resource Committee power point was presented during the public meeting. Three attorneys Edward Robinson, Thomas Bales and Rick Hafen (by phone) participated in the meeting. All three attorneys, representing several clients, strongly opposed local support for any designated river segments in the county. The attorneys also objected to certain aspects of the process. The Commission subsequently approved a motion accepting the Resource Committee's recommendation to NOT provide local support for any Wild and Scenic river designations in Kane County. The lack of local support for river designations in the BLM process as well as the lack of State and local support in the 1997 Memorandum of Understanding process must be fully considered prior to suitability decisions.

Given this recent policy development regarding W&S segment designations in BLM planning it is unlikely that Kane County would provide any level of support for the North Fork of the Virgin River as a congressionally designated "wild" river.

All of the issues and points raised in this comment letter should be fully considered and analyzed during the suitability DEIS process.

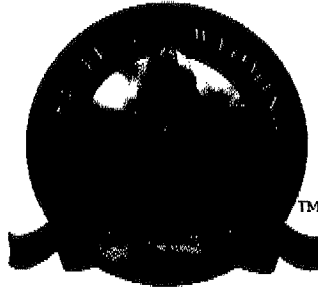
Respectfully submitted,

(via email)

Mark W. Habbeshaw

UTD156

Kane County Commission



Representative Allen M. Jaggi
Wyoming House of Representatives

February 15, 2008
U.S. Department of Agriculture, Forest Service
Wasatch-Cache National Forests

To Whom It May Concern:

I am writing as a citizen of Bridger Valley, former wilderness ranger for the USFS in the Mt. View Ranger District, and now as a Wyoming legislator House District #18.

I am very concerned about your wanting to designate the streams of the Uinta Mountains as wild and scenic.

For all the years up to now, the streams have been in very good shape with all the uses, municipal, irrigation, livestock, wildlife, timber harvest, all kinds of recreation uses, and just esthetic enjoyment. Now after all these years the USFS are looking at the possibility of classifying them as wild and scenic.

I strongly oppose the designating the streams in the Uinta Mountains as wild and scenic and alternative #2.

Sincerely,

A handwritten signature in cursive script that reads "Allen M. Jaggi".

Representative Allen M. Jaggi
House District #18

Included is Representative Owen Petersen

A handwritten signature in cursive script that reads "Owen Petersen".

Committees:

Education

*Travel, Recreation,
Wildlife and Cultural
Resources*

BRIDGER VALLEY WATER CONSERVANCY DISTRICT
P.O. BOX 177
MOUNTAIN VIEW, WYOMING 82939
782-3210

USDA Forest Service
Wasatch-Cache National Forests

Subject: Comments on the Utah NF wild and Scenic River DEIS

To Whom It May Concern:

Enclosed in this letter are Bridger Valley Water Conservancy District's comments and concerns regarding the possibility of river segments within the drainage area of our project on the north slope of the Uinta Mountains in the Wasatch National Forest being recommended to Congress for inclusion in the WSR system.

Bridger Valley Water Conservancy District has been involved for over seventy five years and formally organized for nearly the last fifty years. We spearheaded and continue to cooperate with other agencies in the use and management of the Blackfork and Smithsfork rivers and their tributaries. A storage reservoir was completed on Blackfork river (Meeks Cabin Dam and Reservoir) in 1971 and another on Smithsfork river (Stateline Dam and Reservoir) in 1981. All the water in both rivers is entirely appropriated in Wyoming although the headwaters of both streams begin in Utah, and more specifically in the Wasatch National Forest.

We strongly object to the inclusion of any portion of these two rivers and their tributaries for the following reasons:

1. Our primary objection and concern is our operation of required early warning sites above the storage facilities in upper headwaters of Blackfork River. These sites were installed, at considerable cost, to comply with the Safety of Dams Act and are of vital importance for public safety in the operation of the project. Constant access is required by the road along the river in the narrow valleys. Proper maintenance is required as these are monitored constantly by the National Weather Service. These sites are operated under written mutual agreement of the District, U.S. Bureau of Reclamation, and USFS. Wild rivers standards would prohibit their ability to be operated.

2. Any additional upstream regulation and restrictions would eventually become the controlling factor of the downstream use. The District is always striving to maintain and care for the river systems as it is the life-blood of Bridger Valley. We advocate properly managed grazing, selective timber harvest, and maintaining forest health to reduce the ravages of fire and the resulting erosion and silting to the river by the loss of ground cover. The overregulation and excessive restrictions of the WSR prevents any common sense guardianship of the forest and the entire river system.

Comments

From: nmadsen@mail.manti.com
Posted At: Friday, February 15, 2008 9:46 AM
Conversation: Opposition to...
Posted To: utahnfwsdeis@fscomments.org

Subject: Opposition to...

I am opposed to the designation of Upper Fish Creek and Gooseberry Creek as a scenic river and the porition of Fish Creek below Gooseberry Creek as a recreational river under the Wild and Scenic River Ast. This would impede area watershed management. The "outstanding remarkable value" is not jeopradizd by the existing forest plan. Management issues are best done by those who cherish this area. Consider how small the creeks are. They hardy can be considered "wild rivers". Please consider the blow that a designation under WSRA would weild to our much needed Narrows Project.

Thank you for your consideration. Mayor Natasha Madsen

**Public Lands Department**

Ray Petersen, Administrator

February 15, 2008

RECEIVED FEB 19 2008

Utah NF Wild and Scenic River DEIS
P.O. Box 162969
Sacramento, CA 95816-2969

HOWARD SARGENT
FOREST SUPERVISOR
Manti-La Sal National Forest
599 West Price River Dr.
Price, Utah 84501

Re: Wild and Scenic River Suitability Study, Draft Environmental Impact Statement

Emery County appreciates the opportunity to comment on this Draft Environmental Impact Statement (DEIS) and participate in determining the suitability of designation of streams in Emery County to the National Wild and Scenic River system. The following comments are made with the intent that they be included in the administrative record and are helpful in making the best recommendation for designation.

Emery County believes the best action is to not recommend either of the eligible segments in Emery County for designation. We support the Preferred Alternative (Alternative 3) and ask that the Forest Service team choose the alternative for the Final Environmental Impact Statement (FEIS).

According to the DEIS, "The purpose of the suitability study is to document the Forest Service's analysis and conclusions as to whether an eligible river is a worthy addition to the National System." We believe the Suitability Evaluation Report in Appendix A of the DEIS provides ample information to conclude that Huntington Creek and the Lower Left Fork of Huntington Creek should not be considered worthy additions to the National System. Further, many of the suitability factors taken from the Wild and Scenic Rivers Act (sections 4(a) and 5(c) and referenced on page 1-4 have been addressed by Emery County and be reiterated in these comments:

1. *Characteristics which do or do not make the area a worthy addition to the National System.*

Huntington Canyon is a transportation corridor. State Road 31 overwhelmingly dominates the canyon from power plant diversion to where the highway leaves the canyon near Electric Lake. Within the portion on USFS lands, the creek is never more than six hundred feet away from the highway and for most of the segment it is much closer. In some areas, in fact, the creek is directly below the guard rail. Under these circumstances, how can recreation and scenic values be outstandingly remarkable?

SR-31 Crosses Huntington Creek a number of times in this segment. From Left Hand Fork to Electric Lake alone there are a dozen crossings. These crossings are significant for two reasons when considering the suitability of WSR designation. The mere presence of the concrete structures capped with the asphalt highway and typically delineated with signing, guardrail and other "roadway hardware" again eliminates outstandingly remarkable values. Secondly, the concrete box culverts, as well as gabion and guardrail structures require maintenance and eventual replacement. Such road maintenance activities will require maintenance activity within the waterway. WSR designation could make timely maintenance difficult or even unlikely. Public safety would be compromised. Currently some of the gabion/guardrail structures are overdue for maintenance. 1

The outstandingly remarkable values which make the Lower Left Fork segment eligible for inclusion are not of national significance. The segment is about 5 miles long, includes a Forest Service Campground at the lower end and the Left Hand Fork, National Recreation Trail lies within the entire length of the segment. The nominated segment is similar to many streams on the Manti-LaSal and in the West, and as such is not outstandingly remarkable.

Huntington Cleveland Irrigation Company (HCIC) operates six storage reservoirs in the Left Hand Fork drainage. The release of water from the reservoirs completely regulates the flow of water through the corridor. HCIC is also considering construction of another reservoir facility in the lower canyon. The relationship of water flowing in Huntington Creek and other nearby streams is explained in the document which was previously submitted. That report demonstrates that Left Hand Fork of Huntington Creek and Huntington Creek are part of a water delivery system, which meets the agricultural, industrial and municipal needs of communities within Emery County. The water flow in Lower Left Fork of Huntington Creek is manipulated and regulated from top to bottom.2

Coalbed methane gas has been produced commercially for just over a decade in Utah. During this period production has grown dramatically, reaching over 100 billion cubic feet (Bcf) in 2002 alone. The cumulative production from the four principle fields stands at 412 Bcf. So far, production is limited to a relatively small area at the southwest edge of the Uinta Basin and the eastern slope of the Wasatch Plateau in Carbon and Emery Counties. However, significant coal deposits exist across many other parts of the region. Most of these have good potential for coalbed methane development, but are yet untested.

Presently, XTO Corporation has natural gas wells on both sides of Huntington Creek. Associated with these wells are natural gas and water gathering lines, power lines, and other wellhead equipment needed for production. The company has plans to expand development for natural gas production in the Huntington Canyon area. New wells have either already been permitted or are in the process of being permitted. These new wells would require the construction of additional gathering and power lines. Current and planned gathering or flow lines run parallel to the creek and cross the creek at different locations. Without the planned expansion, there would be lost revenues from potential wells and lost investment in leases. Existing facilities could be affected if

2. Previously submitted document addressed to Catherine Kahlow and Alice Carlton, dated June 25, 2007.

additional development and production does not occur. The flow lines downstream of the development in Huntington Canyon have been sized to handle additional volumes in anticipation of future production. It is expected that some cost would be recovered from new wells added to the gathering system. If no new wells were drilled, the cost would be shared by fewer wells possibly causing premature abandonment.

2. The current status of land ownership and use in the area.

The 5.65 miles from the Huntington Power Plant inlet to the National Forest System boundary is privately and publicly owned with a short section managed by the BLM. These parcels of land (including a 1/2-mile buffer zone on either side of the river corridor) are owned by the following entities:

PacifiCorp (UP&L Co.)
One Utah Center
Suite 2100
201 South Main
Salt Lake City, UT 84111-0021

US Department of the Interior
Bureau of Land Management (BLM)
324 South State St. Suite 301
Salt Lake City, UT 84111-2303

Nevada Electric Investment Co.
P.O. Box 230
Las Vegas, NV 89151

State of Utah
School and Institutional Trust Lands
Administration (SITLA)

The Malcolm McKinnon Estate
Zion's First National Bank Trustee
Salt Lake City, Utah 84111
Emery County
75 East Main Street
Castle Dale, UT 84513

Dick N. & Guinevere A. Nielson
C/o Kristie N. Ligon
4819 Mandel St.
Houston, TX 77006

C.O.P. Coal Development Corp.
3753 South State
Salt Lake City, UT 84115

Huntington Haven LTD Land Co.
Von S. Pratt M.D.
P.O. Box 879
Gunnison, UT 84634

Mike H. Carson
1625 N. Freedom Blvd.
Provo, UT 84604

Steven E. and Lezlee C. Jones
555 E. 4450 N.
Provo, UT 84604

David G. and Julie G. Robinson
2368 Parley's Circle

3. The reasonably foreseeable potential uses of the land and water that would be enhanced, foreclosed, or curtailed if the area were included in the National System.

Water Resources Development – Water resources and their development are the lifeblood of Emery County. The annual precipitation rate in the valley, where the population is concentrated, is about eight inches. This places the area in a semi-arid climate classification. It becomes obvious that supplemental water resources must come from somewhere else. The solution has been diversions from streams that originate on the Wasatch Plateau and from Huntington Creek. Annual precipitation at the higher elevations is about 25 inches, most of which is in the form of snow. Irreversible commitments or restrictions to water use could be costly and prevent the fulfillment of basic community survival and development needs.

Over-Appropriation of Existing Water Supplies

Much of the west Colorado River Basin is over-appropriated and, as a result, late season shortages exist in many of the agricultural areas. The San Rafael River, which is intricately tied to Huntington Creek, is the most over-appropriated drainage in the Basin.

Table 2. Perfected water rights versus the yields of the major drainages within the West Colorado River Basin (p. 288 of the Suitability Report in Appendix A) shows that the water yield of the San Rafael River Basin is 233,000 acre feet whereas the perfected water rights amount to 308,131 acre feet.

The economy and communities on the Huntington Creek drainage depends upon the regulation of limited water resources. Upstream flow regulation is constant except during brief periods of spring runoff when flows from tributaries below the reservoirs exceed the capabilities of the down stream users to utilize the water. During summer months, the flows from upstream storage reservoirs are regulated to meet the demands of industrial, agricultural, and municipal users. During the spring and winter months, storage reservoirs are filled and flows are reduced to meet demands of industrial, municipal, and stock water users. Records from the past few years substantiate the regulated uses. The average annual flow in Huntington Creek is about 51,000 acre-foot (Utah State Engineer's Office). Flows and diversions over the last few years are included in Tables 3, Flows and Diversions in Huntington Creek, and 4 Flows in Huntington Creek during 1991, p. 288 Suitability Report, Appendix A.

It is impossible to consider management of Huntington Creek and its tributaries as an isolated river segment. The design of water storage facilities, delivery systems (canals and pipelines), and the water demand of the two coal-fired power plants (Hunter and Huntington) has created a system that incorporates all of the San Rafael River system. The depletion of stored water in Electric Lake and the subsequent leasing of water from Huntington/Cleveland Irrigation Company members have, in effect, placed water that will be used by the power company in the four reservoirs on the Left Fork of Huntington Creek and in Joes Valley Reservoir on Cottonwood Creek. These transactions also affect the value and use of water stored in

Millsite Reservoir on Ferron Creek.

Five privately owned reservoirs impound water at the head of Huntington drainage. Several smaller manmade earth and dam reservoirs currently exist or have existed in the area. Through a series of canals and diversions, water from the top of this drainage can be diverted to Carbon, Emery, or Sanpete Counties.

Huntington Cleveland Irrigation Company has multiple diversions for industrial, municipal, and agricultural use. Additionally, in scoping comments, the Utah Division of Water Resources identified two potential water developments upstream from the eligible segment.

Russell Site (T14S R06E Section 24, 121 ft high, 3,325 ac-ft capacity). This site is located downstream of Electric Lake on the studied Huntington Creek Wild and Scenic River segment.

Electric Lake has been leaking into the nearby coal mines and may have to be replaced or supplemented in the future if leaks cannot be plugged. Millset Creek (T13S R06E Section 27, 69 ft high, 1,060 ac-ft capacity). USBR site just upstream of Electric Lake and the Huntington Creek Wild and Scenic River segment. The State Engineer performed preliminary design and cost estimates.

From 1974 through the present, flows in Huntington Creek have been artificially regulated to the point that what is now considered “normal” flow is actually a reflection of how PacifiCorp has operated the Huntington Power Plant. Prior to the creation of Electric Lake, flows were between 4 and 6 cubic feet per second (cfs). Since that time, PacifiCorp has been permitted to change flows to between 12 and 15 cfs. In 2003, however, an extended drought combined with the unforeseen loss of water from Electric Lake required flows to be reduced to 40 percent of the new “normal” levels. This was done in cooperation and with permission from the Forest Service. Until the water loss and drought issues are remedied, this flexibility to control river flow is essential for PacifiCorp to maintain its operations.

At one time, a small hydroelectric generator was installed at the base of Electric Lake Dam and has since been decommissioned. Although there are no current plans for using Huntington River for hydroelectric generation, future economic conditions or technological advances could make that option viable or necessary.

A future impoundment along Huntington Creek is actively being sought by the Huntington Cleveland Irrigation Company in order to better control, distribute, and preserve water for its owners. Engineering studies have been completed on one reservoir site, and others are currently being considered. Although any potential impoundment likely would be below the stretch of river currently under consideration, WSR status upstream could have a direct impact on the value and use of water shares administered by Huntington Cleveland Irrigation Company. PacifiCorp has no immediate plans to construct future impoundments along Huntington Creek. However, because of the current water loss at Electric Lake, it is not possible to predict with certainty what actions PacifiCorp may need to take in the future to secure a long-term water source for the Huntington Power Plant.

Castle Valley Special Service District and North Emery Water Users Special District currently have water transmission lines and springs that are used for culinary water supply and transmission in the Huntington Canyon area. Some of these springs and lines have been in place and used by Huntington City since the mid 1920s. These lines run through Huntington Canyon and terminate at the springs located in Rilda, Big Bear, Little Bear, and Tie Fork Canyons. In addition, a surface

water treatment plant is being constructed to use water diverted from Huntington Creek. These springs and lines are important to North Emery, and the communities of Huntington, Cleveland, Lawrence, and Elmo. They provide the only source of drinking water for these communities. Future growth in these communities will require new structures and upgrades of these facilities.

The ability to transfer and sell water rights during drought years is especially critical. Power generating plants, which distribute power throughout western states, are dependent on water and the ability to purchase water from others. An extended drought combined with unforeseen loss of water from Electric Lake has required flexibility for river flows which are essential for PacifiCorp to maintain its power generating operations. WSR designation could impact the potential of federally assisted water resource development projects.

Salinity projects are being developed in the area with the goal of reducing salinity in the Colorado River by providing pressurized water delivery systems to local agricultural users. These systems will significantly reduce water loss from seepage, evaporation and over-application. Salinity projects are typically federally subsidized. Without that subsidy, local farmers are unlikely to pursue widespread use of these systems. To date \$28.6 million has been funded, with additional projects in various stages of planning or implementation (see appendix B).

PacifiCorp "has investigated construction of a lower site reservoir to better regulate water from this drainage. This has been suggested as one of several ways to obtain additional water supplies for a possible fourth unit at the Hunter power plant. This would indicate keeping open the possibility of future impoundments and making certain that WSR planning does not foreclose that possibility," (David Sharp, PacifiCorp, July 11, 2003).

Although water is over appropriated, the flows are regulated to maintain an instream flow for the Blue Ribbon Fishery. 3

There is a real possibility that reasonable, foreseeable uses could be curtailed should the river segments be included in the national system.

5. The extent to which the agency proposes that administration of the river, including the costs thereof, be shared by state and local agencies.

Emery County will not consider sharing in costs associated with the administration of any stream segment added to the national system.

6. The estimated cost to the United States of acquiring necessary lands and interests in land and of administering the area should it be added to the National System.

Unable to find any cost estimates for acquiring lands adjacent to Huntington Creek. Two landowners are power generating companies, another is a coal company. The State of Utah and Emery County are also landowners. Of these landowners, it is unlikely the United States would find willing sellers for the purpose of managing Huntington Creek as a Wild and Scenic River system.

7. A determination of the degree to which the state or its political subdivisions might participate in the preservation and administration of the river should it be proposed for inclusion in the National System.

Page 301 of the Suitability report states:

Local, county and state governments have indicated their disapproval of designation of Huntington Creek as a Wild and Scenic River and their disinterest in any involvement in any management partnerships or funding.

Emery County believes there is only one reasonable conclusion to be drawn from the Suitability Evaluation Report. The reasonable recommendation should be to not include Huntington Creek or Lower Left Fork of Huntington Creek for inclusion in the National Wild and Scenic River System.

In conclusion, Emery County commends the Forest Service for the thoroughness of the Suitability Evaluation Reports of the Huntington Creek and Lower Left Fork of Huntington Creek. Emery County concurs with the facts of these reports. Additionally, Emery County supports Alternative 3, the Preferred Alternative, and requests that this Alternative be selected as the Final EIS.

Respectfully,

Ray D. Petersen
Emery County Public Lands Administrator

cc. John Harja
Utah Public Lands Policy Coordination

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Respectfully,



Ray D. Petersen

Emery County Public Lands Administrator

cc. John Harja
Utah Public Lands Policy Coordination Office



State of Utah

JON M. HUNTSMAN, JR.
Governor

GARY R. HERBERT
Lieutenant Governor

Office of the Governor PUBLIC LANDS POLICY COORDINATION

JOHN HARJA
Director

UTD200

February 15, 2008

Utah National Forest Wild and Scenic River, DEIS
P. O. Box 162969
Sacramento, California 95816-2969

SUBJECT: Draft Environmental Impact Statement: Wild and Scenic River Suitability
Study for National Forest System Lands in Utah

To Whom It May Concern:

The State of Utah appreciates the opportunity to work with the U.S. Forest Service as a formal cooperating agency in the preparation of the *Draft Environmental Impact Statement: Wild and Scenic River Suitability Study for National Forest System Lands in Utah*. The state firmly believes that cooperation between the various landowners and regulatory agencies will lead to the best possible final product. The state recognizes and appreciates the considerable investment of time the Forest Service has made in assessing segment eligibility and the consequences of designation. The state's expectation is that this cooperative relationship will continue and that any resulting designation recommendation will be both well-reasoned and well-formulated. An important part of this process will be ensuring that segments found suitable are consistent with state and local plans, policies, and laws, to the maximum extent possible.

The Public Lands Policy Coordination Office (PLPCO) is tasked by state law to ensure that the positions of the state and its political subdivisions are considered in the development of public lands policy. To this end, PLPCO collected, reviewed and coordinated input from various state agencies and prepared these comments on behalf of the state. We encourage the Forest Service to also fully consider comments submitted by local governments.

The comments and concerns provided below are offered in the spirit of cooperation. The state recognizes this is but one step in a dynamic process that will continue into the future, and reserves the right to supplement these comments as necessary. The state looks forward to resolution of these issues as a cooperating agency through the preparation of the Final EIS and possible congressional recommendations.

Prerequisites to State Support:

Utah law establishes prerequisites for state support of a Wild and Scenic designation, and directs that the Forest Service ensure appropriate information is

developed, disclosed, and used as part of the WSR evaluation process. See Utah Code §63-38d-401(8)(a) thru (b). The law indicates, among other things, that river segments proposed for inclusion in the NWSRS should contain water at all times and possess an outstandingly remarkable value which is significant within a physiographic regional context, and that studies of the effects of designation on uses within the river corridor, as well as upstream and downstream from the corridor, are analyzed and disclosed.

The state is concerned that the evaluation process lost sight of the original intent of the term "outstandingly remarkable." The state believes the final analysis must demonstrate that the *segment* is outstanding within its region, not just that it contains outstanding values. This should be considered as the Forest Service decides whether designation is appropriate, or whether the associated outstanding value can be protected with other management provisions, such as the normal provisions of forest management plans.

While the state is committed to exploring segments of rivers that may qualify for inclusion in the Wild and Scenic River System, the state balances this commitment against concerns that designation of river segments as components of the System may jeopardize the ability of local communities, industry, farmers, Indian tribes, and other water users to appropriate and develop water, and to get change applications approved in order to meet their future water needs. Specifically, the state is concerned that Wild & Scenic River designations may, among other possibilities:

1. Limit the ability of communities to develop water needed for future growth;
2. Limit industrial growth including oil, gas, and mineral development;
3. Limit the use of water for current and future agricultural needs;
4. Reduce funding to the Colorado River Salinity Control Program, or affect agreements already in place for the Endangered Fishes Recovery Program.

Reserved Water Rights:

While federal reserved water rights are not established prior to Congressional designation, stream reaches found suitable are often managed as if they were designated. This manage-as-if-designated approach has the potential to cause managers to believe a *de facto* federal reserved water right exists for those reaches, and thereby impact the future management and utilization of valid existing water rights. No federal reserved water right can be created until Congress acts to designate river segments as components of the National Wild and Scenic River System. The state believes that the suitability determination phase is the proper time to begin negotiations concerning the extent of any future federal reserved water rights.

Protections offered by other management tools:

Forest Service direction indicates that the suitability determination will assess whether "designation is the best method for protecting the river corridor? In answering these questions, the benefits and impact of wild and scenic river designation must be evaluated and alternative protection methods considered." FSH 1909.12 at § 82.4. Similarly, under state statute, support for designation is contingent upon a comparison of protections afforded by other management tools and evaluation of consistency with the Forest Service's multiple-use mandate. See Utah Code § 63-38d-401(8)(a)(vi).

The DEIS and Suitability Evaluation Reports for individual segments discuss existing management requirements and their impact on the identified Outstandingly Remarkable Value. They do not, however, discuss whether designation would afford any additional protection or enhance the ORV. Moreover, the overall difference between designation and existing protections is uncertain where an eligible segment flows through multiple management prescriptions. For example, some segments are partially contained in congressionally designated wilderness but flow onto lands with less stringent protections. Where this occurs, the DEIS generally does not discuss how protections vary across boundaries, or whether designation meaningfully enhances protection. We encourage the Forest Service to expand this discussion.

Outstandingly Remarkable Values in Context:

The DEIS does not adequately or consistently assess whether ORVs are extraordinary when compared to other, similarly situated rivers. As stated in the Land Management Planning Handbook:

In order to be assessed as outstandingly remarkable, a river-related value must be a unique, rare, or exemplary feature that is significant at a comparative regional or national scale. A river-related value would be a conspicuous example of that value from a number of similar examples that are themselves uncommon or extraordinary.

FSH 1909.12 – Land Management Planning Handbook Chapter 80 – Wild and Scenic River Evaluation at § 82.14 (Jan. 31, 2006).

The State of Utah applies a similar standard in determining whether to support segment designation. Under Utah law, state support for Wild and Scenic designation will be withheld where the federal agency fails to clearly demonstrate "that the required water-related value is considered outstandingly remarkable within a region of comparison consisting of one of the three physiographic provinces of the state, and that the rationale and justification for the conclusions are disclosed." Utah Code § 63-38d-401(8)(a)(ii). The same requirement is contained in *Wild and Scenic River Review in the State of Utah, Process and Criteria for Interagency Use*, 5 (June 1996) ("Resources should be at least regionally significant . . . a region should be explicitly delineated so that the significance of the rivers under review can be compared against others in the region").

The DEIS lacks the contextual information needed to assess satisfaction of these requirements. The DEIS does not identify the region of comparison or discuss whether eligible segments are "conspicuous examples of that value from a number of similar examples that are themselves uncommon or extraordinary." FSH 1919.12 at § 82.14. At a minimum, the DEIS should identify the region of comparison for the ORV(s) applicable to each segment and describe benchmark stream types for each physiographic region, comparing each eligible segment against the benchmark in order to demonstrate that recommended segments are indeed outstandingly remarkable when compared to other segments within the region. The Dixie, Fishlake, and Manti-La Sal National Forests published maps of the "Region of Comparison" for each major ORV class on their web sites. Similar information should be provided for each National Forest and addressed in the EIS.

Interim Management:

For identified eligible segments, the Forest Service should specifically identify the statutory authority for imposing interim protection. According to Forest Service Handbook direction, only congressionally identified study rivers receive statutory protections. FSH 1902.12, at § 82.51. "Protection of Forest Service identified study rivers ([segments identified under] sec. 5(d)(1) of the act) derives from other existing authorities (such as the Clean Water Act, the Endangered Species Act, and the Archaeological Resources Protection Act)." *Id.*

Accordingly, the eligible segments identified by the Forest Service are dependant upon separate statutory authority for their protection and the Forest Service should not assume blanket interim protection. Instead, the Forest Service should specifically identify the statutory authority for interim protection of each eligible river segment. This information, specific to each eligible segment, should be included in the Final EIS.

We also note that all action alternatives include Forest Plan amendments to impose interim protection on all segments determined suitable and proposed for designation. Such amendments may exceed the scope of the purpose and need for the proposed action. Moreover, the analysis contained in the DEIS does not demonstrate a compelling need for interim protection. Both issues should be resolved before release of the Final EIS.

Transportation:

Suitability recommendations should not impede the state's ability to meet transportation needs. The Department of Transportation must be able to maintain transportation system safety, increase or expand road and bridge rights of way, and construct and maintain facilities therein. This is especially important for transportation facilities that are adjacent to or cross designated segments. Accordingly, the state is concerned that designating Little Cottonwood Creek, Huntington Creek, Logan River, Lower Logan River, Provo River, Hayden Fork, Beaver Creek, Green River and Lower Main Sheep Creek may impact a state road or U.S. Highway. The state is opposed to any

designation that may hinder, delay, or unduly burden the state's ability to maintain and expand the roadway corridor. We encourage continued cooperation on this issue.

In conclusion, thank you for the opportunity to comment. The state looks forward to continuing cooperation with the Forest Service as we seek to finalize a mutually acceptable designation recommendation. Please feel free to contact me with any questions or concerns about these comments.

Sincerely,

A handwritten signature in black ink, appearing to read 'John Harja', with a stylized flourish extending from the end.

John Harja
Director

cc: Catherine Kahlow, Wild & Scenic Team Leader

Attachment A
Additional State Comments and Concerns

Segments Not Included in an Action Alternative:

Table 3.2.1. lists the river segments eligible for protection based on the existence of ORVs. Ten segments, totaling 80 miles, are not included in any action alternative. These segments are:

- South Fork Ashley Creek on the Ashley National Forest;
- Cottonwood Canyon on the Dixie National Forest (administered by the Fishlake National Forest);
- Corn Creek on the Fishlake National Forest;
- Miners Basin (Placer Creek) on the Manti-La Sal National Forest;
- Chippean and Allen Canyons on the Manti-La Sal National Forest;
- Blacks Fork on the Wasatch-Cache National Forest;
- High Creek on the Wasatch-Cache National Forest;
- Left Hand Fork Blacksmith's Fork on the Wasatch-Cache National Forest;
- Main Fork Weber River on the Wasatch-Cache National Forest; and
- Red Butte Creek on the Wasatch-Cache National Forest.

Please discuss why these segments were determined to be eligible for protection but not carried forward for detailed analysis as part of an action alternative.

Intermittent or Ephemeral Flows:

Under state statute, the State of Utah's support for designation is contingent upon a clear showing that water is present and flowing at all times. Utah Code § 63-38d-401(8)(a)(i). The State of Utah cannot support designation of any segment that fails to satisfy this statutory requirement and therefore opposes designation of the following segments:

- Portions of Death Hollow Creek lacking perennial flows;
- Mamie Creek;
- Moody Wash;
- Cottonwood Canyon;
- Slickrock Canyon;
- Chippean and Allen Canyons;
- Hammond Canyon;
- Lower Dark Canyon, including Poison Canyon, Deadman Canyon, and Woodenshoe and Cherry Canyons;
- Miners Basin (Placer Creek); and
- Upper Dark, Horse Pasture, Peavine & Kigalia Canyons in Upper Dark Canyon

State support for designation is also contingent upon consistent application of eligibility and suitability criteria by all federal agencies. See Utah Code § 63-38d-

401(8)(a)(v). Consistent application of eligibility and suitability criteria furthers the state's interest in guaranteeing management continuity across jurisdictional boundaries. Direction contained in BLM Instruction Memorandum 2004-196 (June 22, 2004), indicates that ephemeral segments are not considered eligible for Wild and Scenic designation. The state encourages the Forest Service to apply a comparable standard in finalizing the EIS.

Scenic ORVs:

Forty-six of eighty-six eligible segments (458 of 840 eligible miles) identify scenery as an ORV. From the descriptions contained in the DEIS and Suitability Evaluation Reports, it is often difficult to determine whether the features that make for an outstanding and remarkable scenic value are within the river corridor and therefore within the protections provided by the Wild and Scenic Rivers Act. Scenic ORVs "should be located in the river or river corridor . . . [and] contribute substantially to the functioning of the river ecosystem and its public value, or owe their location or existence to the river." *Wild and Scenic River Review in the State of Utah, Process and Criteria for Interagency Use* 5 (June 1996).

Where components creating exceptional scenery are outside the river corridor (e.g. middle ground or background views of scenic landscapes), designation does not protect the features that purportedly constitute the outstandingly remarkable value. Since designation does not protect the features of import, designation is an ineffective resource management tool. Rather than propose designations that cannot protect the purported ORV, the Forest Service should forego designation and evaluate more appropriate land management tools as part of the next round of Forest Plan revisions. Reliance on traditional land management tools to protect scenic attributes outside the river corridor is consistent with the approach outlined in *Wild and Scenic River Review in the State of Utah, Process and Criteria for Interagency Use*. Segments with potentially problematic scenic ORVs include, but are not limited to:

- Upper Lake Fork River on the Ashley National Forest (cirque basins and broad glacial valleys);
- Upper Rock Creek on the Ashley National Forest (cirque basins and surrounding basins);
- Mamie Creek on the Dixie National Forest (scenic ORV not specified);
- North Fork of the Provo River and South Fork of the American River on the Uinta National Forest (views of Mt. Timpanogos);
- East Fork of Smiths Fork and Henry's Fork on the Wasatch-Cache National Forest ("background views");
- Main Fork of the Weber River on the Wasatch-Cache National Forest (vistas of Bald Mountain and Reids Peak);
- Middle Fork of the Weber River on the Wasatch-Cache National Forest ("vast views of remote country"); and
- Stillwater Fork and West Fork of the Black's Fork on the Wasatch-Cache National Forest (views of the High Uintas).

Alternatives:

According to the DEIS, Alternative 4 is responsive to the "risk of future planned development." However, the DEIS does not disclose what planned development projects are considered reasonably foreseeable, or which projects pose the greatest risk to ORVs. The risk of future planned development is an important consideration, both in terms of resource conditions and in terms of the opportunities foregone with river designation. The absence of this information effectively precludes readers from weighing the costs and benefits of designation and proffering recommendations that involve mixing and matching segments contained in different alternatives.

According to the DEIS, Alternative 6 reflects conservation organizations' ranking of each segments' importance. The DEIS does not disclose this ranking of segment importance. Rankings represent important information, especially when combined with the aforementioned risk of future planned development, as this information could focus the decision maker on segments where the tradeoffs between protection and development are most profound. This information should be provided in the Final EIS.

Legislative EIS:

It is unclear whether the Wild and Scenic River Suitability Study EIS is intended to serve as a legislative EIS, or alternatively, is an EIS for agency action. The discussion on page 1-4 indicates that the Forest Service will prepare a Record of Decision (ROD), but as described, the ROD will constitute only a "preliminary administrative recommendation," subject to revision by the Chief of the Forest Service, Secretary of Agriculture, and President of the United States. Please clarify the nature of the document, the final agency action subject to appeal, and the point or points in time where a potentially injured party may seek judicial relief.

Clarifying Language:

Table 3.3a.1., Eligible Segments with a Description of Scenic ORVs, indicates that the South Fork of Ashley Creek is recommended for designation under Alternative 5. The map of Alternative 5 and other tables (e.g. Table 3.7.1. River Segments with Domestic Livestock Grazing in or Adjacent to the River Corridor), indicate that the South Fork of Ashley Creek is not recommended under any action alternative. Please resolve this discrepancy.

Table 3.6.1., Mineral Development Status, indicates that Carter Creek is not recommended under any alternative. The map of Alternative 5 and other tables (e.g. Table 3.7.1. River Segments with Domestic Livestock Grazing in or Adjacent to the River Corridor), indicate that Carter Creek would be recommended under Alternative 5. Please resolve this discrepancy.

Table 3.12.1., Flow Regimes of [Eligible] Wild and Scenic River Segments, indicate that Upper Rock Creek and Slickrock Canyon are not recommended under any alternative. The map of Alternative 5 and other tables (e.g. Table 3.7.1. River Segments

with Domestic Livestock Grazing in or Adjacent to the River Corridor), indicate that Upper Rock Creek and Slickrock Canyon would be recommended under Alternative 5. The same table also indicates that Red Butte Creek is recommended under Alternative 4. The map of Alternative 4 and other tables (e.g. Table 3.7.1. River Segments with Domestic Livestock Grazing in or Adjacent to the River Corridor), indicate that Red Butte Creek is not recommended for designation under any alternative. Please resolve these discrepancies.

Table 3.12.2., Segments that have Drinking Water Source Protection Zones, indicates that the Middle Fork of the Weber River would not be recommended under any alternative. The map of Alternative 5 and other tables (e.g. Table 3.7.1. River Segments with Domestic Livestock Grazing in or Adjacent to the River Corridor), indicate that the Middle Fork of the Weber River would be recommended under Alternative 5. Please resolve this discrepancy.

Section 3.10, Social and Economic Resources, omits discussion of Fall Creek and Oweep Creek, both of which are proposed for recommendation under Alternative 5. Please discuss these segments.

Maps, Existing Management, and Special Designations:

The maps contained in Appendix A are not sufficiently detailed to determine whether individual segments are contiguous with segments recommended suitable by neighboring land managers. We encourage the Forest Service to incorporate maps showing segments endorsed by adjacent land managers and their relationship to the segments that would be recommended as suitable across the different alternatives.

Where individual SERs identify existing special designations, the discussion often lacks sufficient information about management within these designations. For example, the Middle Main Sheep Creek is within the Sheep Creek Geologic Area, but the SER does not indicate what, if any, protections are associated with this designation. The absence of this information makes it extremely difficult to identify the protections currently afforded to individual segments. Without this information, the reader is unable to determine whether designation would be redundant with existing management requirements or whether the protections afforded by designation would significantly contribute to ORV protection.

Similarly, the maps contained in Appendix A do not show protections afforded by all existing special designations (e.g. roadless areas, Natural Resource Conservation Areas, designated critical habitat, drinking water source protection zones, etc.). For example, a 5.1 mile segment of Thompson Creek is identified as eligible for designation. Of this 5.1 mile segment, 3.7 miles are within a wilderness area, 1.3 miles are within a roadless area, 1.6 miles are within a Drinking Water Source Protection Zone, and some or all of the segment is managed as a Riparian Habitat Conservation Area. The extent to which these designations overlap is unclear. Please identify which segments are located within areas with special designations and the extent to which these existing designations

afford meaningful direct or indirect protections to the ORVs present in each eligible segment.

Fisheries and Aquatic Values:

The DEIS states that "streams containing cutthroat trout will just be listed as cutthroat trout and no separation by species will be made." DEIS at p. 3-95. Differentiation by species is important given that federal or state law protects several species (Lahontan, Bonneville, Colorado River, and Yellowstone cutthroat trout). Moreover, the Suitability Evaluation Reports (SER) completed for each eligible segment and contained in Appendix A generally specify cutthroat species when fisheries reflect an ORV. Please include this important information, to the extent possible.

Wildlife:

Section 3.3d, Wildlife Values, would be clearer if it indicated whether any of the eligible segments overlap designated critical habitat for T&E species.

Table 3.13.1. identifies habitat for birds on the Partners in Flight and Birds of Conservation Concern List. Below this table "*" is identified as indicating that a species is included on both lists, and that the species is "dependant on the river corridor for primary or secondary breeding, or wintering habitat." Please clarify which of these is correct. The text below Table 3.12.2. refers to Table 3.13.1. but appears to relate to the species noted in Table 3.13.2. Please clarify applicability of these footnotes.

Riparian habitats are extremely important for wildlife. Mountain riparian and lowland riparian habitats are therefore designated as key habitats in the Utah Wildlife Action Plan. We are concerned that designation may prohibit future restoration efforts to enhance riparian habitats. These restoration efforts may include, but are not limited to, using mechanical equipment, disturbing the soil, using pesticides, and creating fish barriers. Improving riparian wildlife habitat will enhance or add outstanding value to the river, which is compatible with the objectives of the Wild and Scenic River Act. We strongly encourage inclusion of language that designations will not restrict future wildlife habitat improvements.

Botanical resources:

The Environmental Consequences section for botanical resources does not present the environmental impacts of the alternatives in comparative form, sharply defining the issues and providing a clear basis for choice among options. Please specifically discuss the botanical resources within each segment and the effect designation or non-designation may have on these resources, both individually and as grouped by alternative.

Range:

The Affected Environment section identifies the segments within which grazing occurs (65 of 86; 727 of 840 miles) and summarizes grazing activities within each of

these segments. Unfortunately, the Environmental Consequences section does not include any measure of potential conflict. Please specifically discuss any known, suspected, or anticipated conflicts between livestock grazing and designation, as well as tentative plans to address conflicts.

Social and economic impacts:

The DEIS states that, "[o]f the six alternatives, Alternative 4 has the most potential for social and economic impacts, primarily due to several potential water development projects associated with segments under consideration." DEIS at p. 3-109. The DEIS describes the No Action and No Listing alternatives as having similar social and economic impacts. DEIS at p. 3-108. Both statements are incorrect. The No Action Alternative includes a mandate to protect ORVs and maintain segment eligibility. This mandate applies to all eligible segments and has the potential to affect more water-related projects than any other alternative. As we requested elsewhere, please specifically discuss the interim protections afforded each eligible segment and the authority for such protections. Please also update the social and economic impacts section as appropriate.

Neighboring Jurisdictions:

Tables 4.14.1. and 4.14.2. provide an incomplete assessment of segments extending on to lands administered by other agencies. These tables should be referenced as 3.14.1. and 3.14.2., respectively. The table identified as 4.14.1. discloses findings of ineligibility for several segments abutting eligible segments, but is silent with respect to most segments extending onto lands administered by other federal agencies. Please clarify whether the segments excluded from the table extend onto lands administered by other federal agencies, and if so, whether they were determined eligible and suitable. Similarly, Table 4.14.2. discloses other federal land managers' classification of segments, but does not indicate whether these segments are contiguous with segments determined eligible by the Forest Service. Maps displaying this information would also be helpful.

Potential water development:

The Forest Service Handbook recognizes that a suitability recommendation involves an assessment of and decision regarding alternatives foregone because of designation. In particular, the suitability determination should consider whether one or more alternative uses are important enough to override the need for designation. Part of this assessment considers the existence of a "demonstrated commitment to protect the river by any nonfederal entity that may be partially responsible for implementing protective management." FSH 1909.12 at § 82.4. Under state law, support for designation is contingent upon a showing that designation and subsequent management will not prevent, reduce, impair, or otherwise interfere with the state and its citizens' enjoyment of complete and exclusive water rights in and to the rivers of the state. Utah Code § 63-38d-401(8)(a)(x).

Utah is the second most arid state in the nation and development of the state's water resources is critical to the long-term health and prosperity of the state and its

residents. Where the state has identified reasonably foreseeable development of water resources that may conflict with future management of a segment recommended for designation, the Forest Service should forego a designation recommendation.

While reviewing Table 3.12.4, Segments with Potential Water Developments, the Division of Water Resources noted that the potential reservoir site affecting the proposed Wild and Scenic River segment "Left, Right, and East Fork Bear River," has been accredited to the Utah Division of Water Resources as well as to the Wyoming State Water Plan, Bear River Basin Plan. The East Fork potential reservoir sites listed in T01N R10E sections 26 & 27 (Salt Lake Base and Meridian) on the upper Stillwater River were not submitted by the Utah Division of Water Resources for consideration in the Forest Service's Wild and Scenic Rivers review. These sites apparently come from a study performed for the State of Wyoming by J. T. Banner & Associates Consulting Engineers, dated September, 1958. We were aware of these sites but had eliminated them from our consideration. These sites were more likely submitted by another entity quoting the Wyoming State Water Plan.

The Forest Service's preferred alternative eliminated those proposed Wild and Scenic River segments that would encroach upon proposed reservoir sites the Utah Division of Water Resources initially submitted for consideration by the Forest Service. However, we have since reevaluated potential reservoirs and determined that those sites located on the Logan River as well as the two sites located on Beaver Creek (which flows into the Logan River) are no longer recommended by the Utah Division of Water Resources staff. It is unlikely that any proposed reservoir would be economical (due to moving highway 89 and other developments). In addition, to our knowledge, there has been no recent interest expressed in developing any of the sites in Logan Canyon. Some sites we did submit were listed in an incorrect section. The sites listed in error are Logan River No. 3, and Logan River No. 4, listed by us as being in T12N, R03E, Section 18. They should have been listed in T12N, R03E, Section 24 on the Logan River. An updated list of potential reservoir development sites is attached.

Supplemental Scientific Research:

In an effort to understand the nature and extent of the effects of designations, the state contracted with Utah State University to conduct a Wild and Scenic River designation study. The study was designed as: (1) a review of scholarly literature regarding recreation impacts of Wild and Scenic designation, and (2) a literature review and case study analyzing the impact of designation on non-recreational aspects of the economies of local communities and users. Preliminary results indicate: (1) a lack of before and after studies of wild and scenic river designation, (2) anecdotal evidence of a designation effect, (3) one statistical study found no evidence of a designation effect, and (4) various effects on private and public land uses resulting from designation. Complete findings will be available soon. We encourage the Forest Service to carefully consider this information as we move forward.

Comments Specific to Individual River Segments:

Issues regarding several eligible segments arose during the state's DEIS review. The comments below do not reflect a comprehensive review of the Suitability Evaluation Reports for all segments.

The East Fork of Boulder Creek (2.8 miles, Wild) contains a self-sustaining population of Colorado River Cutthroat Trout (CRCT). This is a remnant population and genetically pure. CRCT are listed in DWR's December 2007 Sensitive Species List as a "Conservation Agreement Species." Appendix A at p. 180 indicates that the East Fork of Boulder Creek downstream of the NFS boundary and within the GSENM was determined suitable for designation. However, the East Fork of Boulder Creek is not discussed in the Monument's FEIS. Please clarify.

The North Fork of the Virgin River (0.7 miles, Scenic) has only a minimal contribution to basin integrity as it is one of many tributaries to the Virgin River, very short in length, and separated from other segments under federal management by long stretches of private lands. The cost of designation appears to far outweigh its benefits with respect to this segment.

Manning Creek (3.8 miles, Wild), is in Piute County and contains an important population of Bonneville Cutthroat Trout (BCT). BCT are listed in DWR's December 2007 Sensitive Species List as a "Conservation Agreement Species." Appendix A at p. 265 indicates that Sevier County is opposed to designation. No information is included regarding Piute County's opinion.

The state believes that the identified ORVs associated with Moody Wash are being adequately protected under the Virgin Spinedace Conservation Strategy and the associated Memorandum of Understanding between Utah Department of Natural Resources, United States Fish and Wildlife Service, United States Bureau of Land Management, United States National Park Service, Nevada Department of Conservation and Natural Resources, Washington County Water Conservation District, and Arizona Game and Fish Department. The conservation strategy agreement has been in place since 1995 and, in the state opinion, is a better means for providing effective protection to Moody Wash than Wild and Scenic River designation.

As has been stated in previous comments, the state believes that application of the Wild and Scenic Rivers Act to Fish Creek and Gooseberry Creek would create serious conflicts with existing water rights, a Bureau of Reclamation water development withdrawal which has existed for more than seventy years, and the economic and social needs of several counties. Designation, therefore, does not appear to be in the best interests of the citizens of the State of Utah.

LTD200

Attachment B
Utah Proposed Reservoirs
in Conflict with Wild and Scenic River Designation
on Forest Service Lands

LTD200

Proposed Wild & Scenic River Section	Utah Proposed Reservoirs in Conflict with Wild and Scenic River Designation on Forest Service Lands
Beaver Creek (Logan)	Beaver Narrows, T15N R04E Section 32. Reservoir was proposed with height of 60 ft. and with a capacity of 1,000 ac-ft. References 1 and 2.
	Beaver Narrows (lower), T15N R04E Section 32. Reservoir was proposed at height of 130 ft., with capacity of 4, 877 ac-ft. References 1, 2 and 3.
Black's Fork	Old Headquarters, T03N R12E Section 27, 117 ft high, 14,080 ac-ft capacity. Reference 2. U.S.B.R. preliminary investigation by Debler 1938. Located on proposed Black's Fork Wild and Scenic River segment.
	Big Bend, T02N R12E Section 07, 100 ft, 14,000 af. Reference 2. USBR proposed (unknown report), upstream of the proposed Black's Fork W&S river segment, would regulate water through the segment.
	Blacks Fork (upper), T02N R11E Section 24, 44 ft high, 4,070 ac-ft capacity. Upstream of Black's Fork W&S segment, may also back water up into West Fork Black's Fork W&S segment. Originally proposed by the U.S.B.R. Reference 2.
Fish Creek	Mammoth, T13S R06E Section 06, Two proposed dam heights; 115 ft high, and 180 ft high, capacities of 41,213 ac-ft and 75,624 ac-ft respectively. This reservoir was once built and failed, the site is on the upstream end of the proposed Fish Creek Wild and Scenic River segment. Still a viable site, reservoir was originally proposed in several more sizes. Reference 2.
Fish Creek/Gooseberry Creek (Scofield)	Gooseberry, T13S R06E Section 19, 100 ft high, 36,000 ac-ft capacity. On Gooseberry Creek upstream of proposed Fish Creek Wild and Scenic River section. Reference 2, also Bureau of reclamation Water Supply Paper 618, pg.155.
Huntington Creek	Russell Site, T14S R06E Section 24, 121 ft high, 3,325 ac-ft capacity. This site is located downstream of Electric Lake on the proposed Huntington Creek Wild and Scenic River segment. Electric Lake has been leaking into the nearby coal mines and may have to be replaced or supplemented in the future if leaks cannot be plugged. Reference 2.
	Millset Creek, T13S R06E Section 27, 69 ft high, 1,060 ac-ft capacity. USBR site just upstream of Electric Lake and the Huntington Creek Wild and Scenic River segment. The State Engineer performed preliminary design and cost estimates. Reference 2.

Remove

Remove

UTD200

Proposed Wild & Scenic River Section	Utah Proposed Reservoirs in Conflict with Wild and Scenic River Designation on Forest Service Lands
Left Hand Fork Blacksmith Fork	Forks, T10N R02E Section 03, 230 ft height and capacity of 47,000 ac-ft. Reference 4. Just downstream of W&S section, would back water up into the proposed river section.
	Forks, T10N R02E Section 03, 255 ft height and capacity of 35,000 ac-ft. Reference 2. Just downstream of W&S section, would back water up into the proposed river section.
Remove	Card Canyon, T12N R02E Section 24, 310 ft high, 35,000 ac-ft capacity. Reference 1 and 2, U.S.B.R. preliminary investigation by Green in 1924. Located on proposed Logan River Wild and Scenic River segment.
Remove	Dewitt, T12N R02E Section 27, 255 ft high, 35,000 ac-ft capacity. Reference 1 and 2, U.S.B.R. preliminary investigation by Green in 1924. Would back water up onto Logan River Wild and Scenic River segment.
Remove	Logan River (Twin Bridge), T13N R03E Section 27, two heights; 285 ft, 170 ft, with capacities of 26,000 ac-ft and 5,000 ac-ft respectively. Located on middle of the proposed Logan River Wild and Scenic River segment.
Remove	Logan River No. 2A, T12N R02E Section 24, three heights; 250 ft, 200 ft, 150 ft, with capacities of 40,000 ac-ft, 24,000 ac-ft and 10,000 ac-ft respectively. Reference 2, U.S.D.A. Cache valley, Fortier and McLaughlin 1921.
Remove	Logan River No. 3, T12N R03E Section 18, three heights; 250 ft, 200 ft, 150 ft, with capacities of 23,000 ac-ft, 16,100 ac-ft and 8,200 ac-ft respectively. Reference 2, U.S.D.A. Cache valley, Fortier and McLaughlin 1921.
Remove	Logan River No. 4, T12N R03E Section 18, two heights; 250 ft, 200 ft, with capacities of 21,000 ac-ft and 13,000 ac-ft respectively. Reference 2, U.S.D.A. Cache valley, Fortier and McLaughlin 1921.
Remove	Logan River No. 5, T12N R03E Section 07, two heights; 250 ft and 200 ft, with capacities of 22,000 ac-ft and 14,000 ac-ft respectively. Reference 2, U.S.D.A. Cache valley, Fortier and McLaughlin 1921.
Remove	Twin Creek, T13N R03E Section 23, four dam heights proposed; 322ft, 250ft, 200ft, 150ft, with capacities of 48,000 ac-ft, 40,000 ac-ft, 22,000 ac-ft and 9,400 ac-ft respectively. Reference 2, U.S.B.R. Cache Valley, Green 1924.

UTD200

Proposed Wild & Scenic River Section	Utah Proposed Reservoirs in Conflict with Wild and Scenic River Designation on Forest Service Lands
Lower Dry Fork Creek	<p>East Cottonwood, T02S R19E Section 26, 70 ft high, 3,000 ac-ft capacity. This reservoir would be located on Dry Fork Creek at the south end of Brownie Canyon, east of Charley's Park. The reservoir would be used for flood control and summer irrigation storage. A field geologic site analysis was conducted by the U.S. Natural Resources Conservation Service in the early 1930's.</p> <p>Blanchett Park Reservoir, T01S R18E Section 28, 72 ft height, 4,600 ac-ft capacity. This reservoir site is located on the main stem of Dry Fork Creek approximately 5 miles upstream of the Wild & Scenic river section. Although a larger reservoir could be filled, topography limits the practical size of the reservoir. U.S. Natural Resources Conservation Service conducted a geologic investigation of this site.</p>
Middle Main Sheep Creek	<p>Hickerson Park, T02N R18E Section 19, Heights of 60 ft and 96 ft, with capacities of 4,000 ac-ft and 8,997 ac-ft respectively. Dam would be on Sheep Creek 6 miles above proposed W&S section. This proposed reservoir is located west of existing Long Park Reservoir and was investigated at the same time. The Long Park site was chosen over this site due to its larger capacity of 14,300 ac-ft. This reservoir could be useful if leaks reappear in Long Park Reservoir. Reference 3</p>
Middle Whiterocks	<p>Whiterocks Reservoir (Swiger alignment), T02N R01E Section 06, 255 ft high, 59,260 ac-ft capacity. This site is located on-stream one mile southwest of Ice Cave Peak. This site was proposed in a 1978 report by the Department of the Interior, Bureau of Reclamation, and Central Utah Water Conservancy District as part of the Central Utah Project. The present dam height and capacity were proposed in a 1992 study that revisited the site. The dam would be roller compacted concrete or earthfill. Water from this dam would serve 21,000 Indian and 25,000 acres of non-Indian land. Four named canals would serve the area; Whiterocks and Ouray, U.S. Deep Creek, Henry Jim and Moffatt. Reference 5.</p> <p>Whiterocks Reservoir, T03N R01W Section 09 (Uintah Base and Meridian), 330 ft. high, 101,040 ac-ft capacity. CUP proposed.</p>

UTD200

Proposed Wild & Scenic River Section	Utah Proposed Reservoirs in Conflict with Wild and Scenic River Designation on Forest Service Lands
South Fork Ashley Creek	Dry Fork Twins, Reservoir T01S R18E Section 22, 49 ft high, 3,200 ac-ft capacity. Located on the Twin Lake Fork of Dry Fork Creek The U.S. Natural Resources Conservation Service conducted a geologic investigation of this site and cost estimate for the dam in 1965.
	Harmston Park, T01S R18E Section 23, 67 ft high, 2,220 ac-ft capacity. This site is located near the Twin Lakes Fork of Dry Fork Creek, approximately 0.5 mile upstream from existing Dry Fork Twin Lakes and 1.0 mile down stream from proposed Reynolds Lake Reservoir. This reservoir would regulate a portion of the water that flows through the proposed South Fork Ashley Creek Wild and Scenic River segment.
	Reynolds Lake Reservoir, T01S R18E Section 24, 48 ft high 1,000 ac-ft capacity. This reservoir would regulate a portion of the water that flows through the proposed South Fork Ashley Creek Wild and Scenic River segment.
	Trout Creek Reservoir T01S R19E Section 13, 116 ft high, 14,400 ac-ft. On South Fork Ashley Creek Wild and Scenic River segment. Proposed in a 1975 study and revisited in 1988 by Bingham Engineering for the Dry Fork/Ashley Creek Flood Control Project, this reservoir would attenuate springtime flooding by storing high flows from Trout Creek and the North Fork of Ashley Creek. The reservoir would also retain water for the late summer irrigation demands for a portion of 17,000 acres of cropland. Located 25 miles northwest of Vernal at the confluence of the two creeks, the reservoir was originally proposed at a 25,000 ac-ft capacity by the Soil Conservation Service.
Stillwater Fork	Wyuta, T01N R10E Section 09, Two heights proposed; 130 ft and 170 ft, with capacities of 6,325 ac-ft and 146,000 ac-ft respectively. These projects would be located on-stream in the middle of this proposed Wild and Scenic segment. Reference 1 (Wyuta). Three smaller capacity reservoirs named Stillwater also proposed in this section with heights of 70 ft, 78 ft, and 90 ft, with capacities of 4,900 ac-ft, 9,500 ac-ft, and 9,300 ac-ft respectively. Reference 1 & 2 (Stillwater).

UTD200

Proposed Wild & Scenic River Section	Utah Proposed Reservoirs in Conflict with Wild and Scenic River Designation on Forest Service Lands
Upper Yellowstone Creek	Upper Yellowstone B, T02N R04W Section 10, 134 ft height, 6,440 ac-ft capacity. This on-stream dam site is located 1.5 miles north of the Yellowstone Ranch. The dam was proposed to be constructed of roller compacted concrete or earthfill. Nine canals would furnish irrigation water for 13,100 acres of Indian land and 30,400 of non-Indian land. The reservoir would be located on Forest Service land and would inundate the Pineview Campground. Preliminary site geology was examined in the summer of 1993 by CH ₂ M Hill/Horrocks.
	Upper Yellowstone C, T02N R04W Section 15, 275 ft height, 61,350 ac-ft capacity. This on-stream dam site is located 0.75 miles north of the Yellowstone Ranch. The dam was proposed to be constructed of roller compacted concrete or earthfill. Nine canals would furnish irrigation water for 13,100 acres of Indian land and 30,400 of non-Indian land. The reservoir would be located on Forest Service land and inundate both the Swift Creek and Riverview Campgrounds. This reservoir would be located entirely on federal land, backing water up into the proposed Wild and Scenic River section. Preliminary site geology was examined in the summer of 1993 by CH ₂ M Hill/Horrocks.
	Upper Yellowstone E, T02N R04W Section 15, 330 ft height, 101,040 ac-ft capacity. This on-stream dam site is located 0.25 miles north of the Yellowstone Ranch. The dam was proposed to be constructed of roller compacted concrete or earthfill. Nine canals would furnish irrigation water for 13,700 acres of Indian land and 30,400 of non-Indian land. The reservoir would be located on Forest Service land and inundate Swift Creek, Riverview and Reservoir Campgrounds. This proposed reservoir would be located entirely on federal land, backing water up into the proposed Wild and Scenic River section. Preliminary site geology was examined in the summer of 1993 by CH ₂ M Hill/Horrocks.